

01/08/08

ANTICIPATED JOINT VENTURE BETWEEN BBC WORLDWIDE LIMITED, CHANNEL 4 TELEVISION CORPORATION AND ITV PLC (“THE PARTIES”) RELATING TO THE VIDEO ON DEMAND SECTOR: PROJECT KANGAROO (“THE JOINT VENTURE”)

SUBMISSION BY THE WALT DISNEY COMPANY LIMITED (“WDCL”) TO THE COMPETITION COMMISSION

1) WDCL’s Involvement in the Market for VOD Services in the UK

WDCL distributes feature films and television programming produced by the feature film and television production arms of The Walt Disney Company to broadcasters and television platforms (including VOD services) throughout Europe, the Middle East and Africa. WDCL has over the last few years entered into a large number of agreements for the licence of VOD rights in its programming to VOD services in the above region, including the UK. WDCL has a 50% equity share in the FilmFlex feature film VOD service that is offered to Virgin Media’s cable television subscribers in the UK.

2) Scope of the Market for VOD Services in the UK

(a) Product Market

WDCL believes that the product market relevant to VOD programming services in the UK encompasses all types of audio-visual content which may be of interest to viewers, irrespective of the length or national origin of such content. The market currently supports both long form content which may only be accessed on payment of a fee and short form and catch-up content offered to consumers for free (whether or not on an advertising-supported basis). VOD operators generally offer a wide choice of programming and no one category of content operates as a stand-alone driver for the success of such VOD services.

(b) Upstream Market for Acquisition of VOD Content

The main purchasers of rights for VOD content in the UK can be divided into three groups: (i) linear television broadcasters who operate web or platform-based VOD services and will generally acquire VOD rights at the same time as broadcast rights, (ii) telephony/broadband service providers and (iii) software or device manufactures (e.g. Apple, Microsoft and Sony). Broadcasters will acquire such rights from television production companies (in the case of commissioned programming) and distributors (in the case of acquired programming).

(c) Downstream Market for Provision of VOD Content to Consumers

The same companies that acquire VOD content also operate services in the UK that make such content available to consumers. Some broadcasters who operate web-based services also allow their services to be carried on platforms (e.g. the BBC's iPlayer and Channel 4's 4oD). Web-based services generally offer access to programming to all UK consumers, whereas the content on platform-based services is restricted to the subscribers to such platforms.

3) Effect of the Joint Venture on the Market for VOD Services in the UK

WDCL believes that any expansion of the VOD market in the UK will be beneficial to rightsholders, operators of VOD services and consumers. Based on its understanding of the purpose and scope of the Joint Venture and on the description of the Joint Venture provided by the Parties, WDCL does not have any competition concerns about the Joint Venture provided that the Parties continue to buy and compete for the acquisition of VOD rights independently of each other and that they comply with the confidentiality provisions in their acquisition agreements.